

**APPROVED JURISDICTIONAL DETERMINATION FORM**  
**U.S. Army Corps of Engineers**

JD 1 of 2

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** December 21, 2007.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Seattle District, NWS-2007-1882, New Heights Church.

Name of water being evaluated on this JD form: Mill Creek and Abutting Wetlands B and C

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Washington County: Clark City: Battle Ground

Center coordinates of site (lat/long in degree decimal format): Lat: 45° 46' 58" N, Long: 122° 33' 40" Pick List

Universal Transverse Mercator: \_\_\_\_\_

Name of nearest waterbody: Mill Creek

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Lake River

Name of watershed or Hydrologic Unit Code (HUC): F17080001

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☒ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different JD form. List other JDs: JD 2 of 2 for Wetland A

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

☐ Office (Desk) Determination. Date: \_\_\_\_\_

☒ Field Determination. Date(s): 10/18/07 and 11/2/07.

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

☐ Waters subject to the ebb and flow of the tide.

☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: \_\_\_\_\_

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

**1. Waters of the U.S.**

**a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>**

- ☐ TNWs, including territorial seas
- ☐ Wetlands adjacent to TNWs
- ☒ Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs
- ☐ Non-RPWs that flow directly or indirectly into TNWs
- ☒ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- ☐ Impoundments of jurisdictional waters
- ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

**b. Identify (estimate) size of waters of the U.S. in the review area:**

Non-wetland waters: 750 linear feet 3 width (ft) and/or \_\_\_\_\_ acres.

Wetlands: 0.78 acres.

**c. Limits (boundaries) of jurisdiction based on: Established by OHWM, and 1987 Delineation Manual.**

Elevation of established OHWM (if known): \_\_\_\_\_

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: \_\_\_\_\_

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup> Supporting documentation is presented in Section III.F.

### **SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs – NOT APPLICABLE**

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS – NOT APPLICABLE**

**C. SIGNIFICANT NEXUS DETERMINATION – NOT APPLICABLE**

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:**

**2. RPWs that flow directly or indirectly into TNWs.**

- ☒ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide rationale indicating that tributary flows perennial: Creek is about 3 feet wide; based upon field observations, this portion of the creek flows year round. Creek is depicted as blue line on maps. Describe flow path to a TNW: Mill Creek flows SW to Salmon Creek; Salmon Creek flows west to Lake River. Lake River is a Section 10 water and TNW. Lake River flows north to the Columbia River which is a Section 10 water, a TNW, and an interstate waterway.

Provide estimates for jurisdictional waters in the review area (check all that apply):

☒ Tributary waters: 750 linear feet 3 width (ft).

☐ Other non-wetland waters: \_\_\_\_\_ acres.

Identify type(s) of waters: \_\_\_\_\_.

**4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

- ☒ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
- ☒ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: Based upon field observations, review of wetland delineation report, and aerial photographs, wetlands B and C are directly abutting Mill Creek

Provide acreage estimates for jurisdictional wetlands in the review area: 0.78 acres.

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): NOT APPLICABLE**

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS: NOT APPLICABLE**

### **SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply):**

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: “Wetland Delineation and Assessment, Parcel 228576-000 West of NW 20th Avenue, Battle Ground, WA” dated January 22, 2007, prepared by The Resource Company for the City of Battle Ground.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☒ Office concurs with data sheets/delineation report.
- ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: \_\_\_\_\_.
- ☐ Corps navigable waters’ study: \_\_\_\_\_.
- ☐ U.S. Geological Survey Hydrologic Atlas: \_\_\_\_\_.
- ☐ USGS NHD data.
- ☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name: \_\_\_\_\_.
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: \_\_\_\_\_.
- ☐ National wetlands inventory map(s). Cite name: \_\_\_\_\_.
- ☒ State/Local wetland inventory map(s): Clark County Digital Atlas for parcel 228576000
- ☐ FEMA/FIRM maps: \_\_\_\_\_.
- ☐ 100-year Floodplain Elevation is: \_\_\_\_\_ (National Geodetic Vertical Datum of 1929)
- ☐ Photographs: ☐ Aerial (Name & Date): \_\_\_\_\_  
or ☐ Other (Name & Date): \_\_\_\_\_.
- ☐ Previous determination(s). File no. and date of response letter: \_\_\_\_\_.
- ☐ Applicable/supporting case law: \_\_\_\_\_.
- ☐ Applicable/supporting scientific literature: \_\_\_\_\_.
- ☐ Other information (please specify): \_\_\_\_\_.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** Mill Creek is not considered a TNW. The lower portion of Salmon Creek, downstream of I-5 or at about RM 4, may be a TNW; however there is no known documented connection to foreign or interstate commerce. A formal determination on whether the lower portions of Salmon Creek are a TNW has not been made.

**APPROVED JURISDICTIONAL DETERMINATION FORM**  
**U.S. Army Corps of Engineers**

JD 2 of 2

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** January 11, 2008.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Seattle District, NWS-2007-1882, New Heights Church.

Name of water being evaluated on this JD form: Wetland A, adjacent to Mill Creek

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Washington County: Clark City: Battle Ground

Center coordinates of site (lat/long in degree decimal format): Lat: 45° 46' 58" N, Long: 122° 33' 40" Pick List

Universal Transverse Mercator: \_\_\_\_\_.

Name of nearest waterbody: Mill Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Lake River.

Name of watershed or Hydrologic Unit Code (HUC): F17080001.

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☒ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different JD form. List other JDs: JD 1 of 2 for Mill Creek and Abutting Wetlands B and C.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

☐ Office (Desk) Determination. Date: \_\_\_\_\_.

☒ Field Determination. Date(s): 10/18/07 and 11/2/07.

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

☐ Waters subject to the ebb and flow of the tide.

☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: \_\_\_\_\_.

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

**1. Waters of the U.S.**

**a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>**

- ☐ TNWs, including territorial seas
- ☐ Wetlands adjacent to TNWs
- ☒ Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs
- ☐ Non-RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
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- ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- ☐ Impoundments of jurisdictional waters
- ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

**b. Identify (estimate) size of waters of the U.S. in the review area:**

Non-wetland waters: 750 linear feet 3 width (ft) and/or \_\_\_\_\_ acres.

Wetlands: 0.08 acres.

**c. Limits (boundaries) of jurisdiction based on:** **Established by OHWM.** and **1987 Delineation Manual.**

Elevation of established OHWM (if known): \_\_\_\_\_.

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: \_\_\_\_\_.

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup> Supporting documentation is presented in Section III.F.

### SECTION III: CWA ANALYSIS

#### A. TNWs AND WETLANDS ADJACENT TO TNWs

If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

##### 1. TNW

Identify TNW: \_\_\_\_\_.

Summarize rationale supporting determination: \_\_\_\_\_.

##### 2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": \_\_\_\_\_.

#### B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. If the waterbody<sup>4</sup> is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both.

If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

##### 1. Characteristics of non-TNWs that flow directly or indirectly into TNW

###### (i) General Area Conditions:

Watershed size: ~12 square miles

Drainage area: \_\_\_\_\_ Pick List

Average annual rainfall: ~50 inches

Average annual snowfall: \_\_\_\_\_ inches

###### (ii) Physical Characteristics:

###### (a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☒ Tributary flows through 1 tributaries before entering TNW.

Project waters are 10-15 river miles from TNW.

Project waters are 1 (or less) river miles from RPW.

Project waters are 5-10 aerial (straight) miles from TNW.

Project waters are 1 (or less) aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: \_\_\_\_\_.

Identify flow route to TNW<sup>5</sup>: Mill Creek flows SW to Salmon Creek; Salmon Creek flows west to Lake River. Lake River is a Section 10 water and TNW. Lake River flows north to the Columbia River which is a Section 10 water, a TNW, and an interstate waterway.

Tributary stream order, if known: \_\_\_\_\_.

###### (b) General Tributary Characteristics (check all that apply):

Tributary is: ☐ Natural

☐ Artificial (man-made). Explain: \_\_\_\_\_.

☒ Manipulated (man-altered). Explain: The creek at the project site has been channelized and re-aligned. The creek has been impacted from urbanization and agriculture.

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

<sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

**Tributary** properties with respect to top of bank (estimate):

Average width: 3 feet

Average depth: 1 feet

Average side slopes: **2:1**.

Primary tributary substrate composition (check all that apply):

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Silts       | <input type="checkbox"/> Sands                           | <input type="checkbox"/> Concrete        |
| <input checked="" type="checkbox"/> Cobbles     | <input type="checkbox"/> Gravel                          | <input checked="" type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock                | <input type="checkbox"/> Vegetation. Type/% cover: _____ |  |
| <input type="checkbox"/> Other. Explain: _____. |  |  |

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: appears stable.

Presence of run/riffle/pool complexes. Explain: Not in project area.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): ≤1 %

(c) Flow:

Tributary provides for: **perennial**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: \_\_\_\_\_.

Other information on duration and volume: \_\_\_\_\_.

Surface flow is: **Discrete and confined**. Characteristics: \_\_\_\_\_.

Subsurface flow: **Unknown**. Explain findings: \_\_\_\_\_.

☐ Dye (or other) test performed: \_\_\_\_\_.

Tributary has (check all that apply):

- |  |   |
|--|---|
| <input type="checkbox"/> Bed and banks   |   |
| <input checked="" type="checkbox"/> OHWM <sup>6</sup> (check all indicators that apply): |   |
| <input checked="" type="checkbox"/> clear, natural line impressed on the bank            | <input type="checkbox"/> the presence of litter and debris          |
| <input type="checkbox"/> changes in the character of soil                                | <input type="checkbox"/> destruction of terrestrial vegetation      |
| <input type="checkbox"/> shelving  | <input type="checkbox"/> the presence of wrack line                 |
| <input checked="" type="checkbox"/> vegetation matted down, bent, or absent              | <input type="checkbox"/> sediment sorting                           |
| <input type="checkbox"/> leaf litter disturbed or washed away                            | <input type="checkbox"/> scour                                      |
| <input type="checkbox"/> sediment deposition   | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining  | <input type="checkbox"/> abrupt change in plant community           |
| <input type="checkbox"/> other (list): _____   |   |
| <input type="checkbox"/> Discontinuous OHWM. <sup>7</sup> Explain: _____.                |   |

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

- |  |  |
|--|--|
| <input type="checkbox"/> High Tide Line indicated by:              | <input type="checkbox"/> Mean High Water Mark indicated by:            |
| <input type="checkbox"/> oil or scum line along shore objects      | <input type="checkbox"/> survey to available datum;                    |
| <input type="checkbox"/> fine shell or debris deposits (foreshore) | <input type="checkbox"/> physical markings;                            |
| <input type="checkbox"/> physical markings/characteristics         | <input type="checkbox"/> vegetation lines/changes in vegetation types. |
| <input type="checkbox"/> tidal gauges                              |  |
| <input type="checkbox"/> other (list): _____                       |  |

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: water quality is fair; creek not listed on 303d list, assume fecal and temperature concerns.

Identify specific pollutants, if known: \_\_\_\_\_.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- ☒ Riparian corridor. Characteristics (type, average width): At project site, some shrub/trees (~10 feet wide), while other portions have emergent wetlands.
- ☒ Wetland fringe. Characteristics: PEM, category III on a scale of I to IV with I the highest.
- ☒ Habitat for:
- ☒ Federally Listed species. Explain findings: Coho and Steelhead trout are mapped to occur within 1/2 mile of project area.
- ☐ Fish/spawn areas. Explain findings: \_\_\_\_\_.

<sup>6</sup>A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

<sup>7</sup>Ibid.

- ☐ Other environmentally-sensitive species. Explain findings: \_\_\_\_\_.  
☐ Aquatic/wildlife diversity. Explain findings: \_\_\_\_\_.

**2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

**(i) Physical Characteristics:**

**(a) General Wetland Characteristics:**

Properties:

Wetland size: 0.08 acres

Wetland type. Explain: PEM.

Wetland quality. Explain: Category IV on a scale of I to IV with I the highest; vegetation mowed.

Project wetlands cross or serve as state boundaries. Explain: \_\_\_\_\_.

**(b) General Flow Relationship with Non-TNW:**

Flow is: **No Flow**. Explain: No observed surface flow; within flood plain.

Surface flow is: **Not present**

Characteristics: \_\_\_\_\_.

Subsurface flow: **Unknown**. Explain findings: Assume some subsurface flow since wetland is approximately 30 feet from creek.

☐ Dye (or other) test performed: \_\_\_\_\_.

**(c) Wetland Adjacency Determination with Non-TNW:**

☐ Directly abutting

☒ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: \_\_\_\_\_.

☐ Ecological connection. Explain: \_\_\_\_\_.

☒ Separated by berm/barrier. Explain: The uplands between Wetland A and Mill Creek appear to be historic fill from when the creek was channelized/re-aligned. The channelization of the creek and the placement of fill material cut-off the surface hydrological connection between Wetland A and the creek. During flood events, Wetland A would be inundated. Subsurface connection is assumed to occur between the creek and Wetland A.

**(d) Proximity (Relationship) to TNW**

Project wetlands are **10-15** river miles from TNW.

Project waters are **5-10** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters.**

Estimate approximate location of wetland as within the **20 - 50-year** floodplain.

**(ii) Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: \_\_\_\_\_.

Identify specific pollutants, if known: none known.

**(iii) Biological Characteristics. Wetland supports (check all that apply):**

☐ Riparian buffer. Characteristics (type, average width): \_\_\_\_\_.

☐ Vegetation type/percent cover. Explain: \_\_\_\_\_.

☐ Habitat for:

☐ Federally Listed species. Explain findings: \_\_\_\_\_.

☐ Fish/spawn areas. Explain findings: \_\_\_\_\_.

☐ Other environmentally-sensitive species. Explain findings: \_\_\_\_\_.

☐ Aquatic/wildlife diversity. Explain findings: \_\_\_\_\_.

**3. Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **2**

Approximately ( 0.78 ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Wetland B – Directly abuts Mill Creek, 0.01+ acres

Wetland C – Directly abuts Mill Creek, 0.68+ acres

Summarize overall biological, chemical and physical functions being performed: Wetlands help to filter and retain stormwater runoff, and presumably help recharge groundwater. Wetlands provide habitat, and create and transfer organic carbon, which supports the downstream food web.

### C. SIGNIFICANT NEXUS DETERMINATION

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: \_\_\_\_.
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: \_\_\_\_.
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: Significant nexus is present due to wetlands helping to filter stormwater runoff; retaining stormwater, and presumably helping to recharge groundwater. Wetlands provide habitat, and create and transfer organic carbon which supports the downstream food web of the the TNW. Wetlands at the site provide recharge to creek and flood storage along with nutrient input and the filtration of residential pollutants. All of which is important to ESA-listed salmonids which use the lower portions of Mill Creek.

### D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:  
☐ TNWs: \_\_\_\_ linear feet \_\_\_\_ width (ft), or \_\_\_\_ acres.  
☐ Wetlands adjacent to TNWs: \_\_\_\_ acres.
2. **RPWs that flow directly or indirectly into TNWs.**  
☒ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide rationale indicating that tributary flows perennial: Creek is about 3 feet wide; based upon field observations, this portion of the creek flows year round. Creek is depicted as blue line on maps.  
☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: \_\_\_\_.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☒ Tributary waters: 7500 linear feet 3 width (ft).  
☐ Other non-wetland waters: \_\_\_\_ acres.  
Identify type(s) of waters: \_\_\_\_.

3. **Non-RPWs<sup>8</sup> that flow directly or indirectly into TNWs.**

- ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- ☐ Tributary waters: \_\_\_\_ linear feet \_\_\_\_ width (ft).  
☐ Other non-wetland waters: \_\_\_\_ acres.  
Identify type(s) of waters: \_\_\_\_.

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

- ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.  
☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: \_\_\_\_  
☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: \_\_\_\_

Provide acreage estimates for jurisdictional wetlands in the review area: \_\_\_\_ acres.

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<sup>8</sup>See Footnote # 3.



5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

- ☒ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: 0.08 acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

- ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: \_\_\_\_\_ acres.

7. **Impoundments of jurisdictional waters.<sup>9</sup>**

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- ☐ Demonstrate that impoundment was created from “waters of the U.S.,” or  
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or  
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. **ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):<sup>10</sup>**

- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.  
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.  
☐ which are or could be used for industrial purposes by industries in interstate commerce.  
☐ Interstate isolated waters. Explain: \_\_\_\_\_.  
☐ Other factors. Explain: \_\_\_\_\_.

Identify water body and summarize rationale supporting determination: \_\_\_\_\_

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft).  
☐ Other non-wetland waters: \_\_\_\_\_ acres.

Identify type(s) of waters: \_\_\_\_\_.

- ☐ Wetlands: \_\_\_\_\_ acres.

F. **NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.  
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.  
☐ Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).  
☐ Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain: \_\_\_\_\_.  
☐ Other: (explain, if not covered above): \_\_\_\_\_.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft).  
☐ Lakes/ponds: \_\_\_\_\_ acres.  
☐ Other non-wetland waters: \_\_\_\_\_ acres. List type of aquatic resource: \_\_\_\_\_.  
☐ Wetlands: \_\_\_\_\_ acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft).  
☐ Lakes/ponds: \_\_\_\_\_ acres.  
☐ Other non-wetland waters: \_\_\_\_\_ acres. List type of aquatic resource: \_\_\_\_\_.

<sup>9</sup> To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup> Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

☐ Wetlands: \_\_\_\_\_ acres.

#### **SECTION IV: DATA SOURCES.**

##### **A. SUPPORTING DATA. Data reviewed for JD (check all that apply):**

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: "Wetland Delineation and Assessment, Parcel 228576-000 West of NW 20th Avenue, Battle Ground, WA" dated January 22, 2007, prepared by The Resource Company for the City of Battle Ground.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☒ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: \_\_\_\_\_.
- ☐ Corps navigable waters' study: \_\_\_\_\_.
- ☐ U.S. Geological Survey Hydrologic Atlas: \_\_\_\_\_.
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name: \_\_\_\_\_
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: \_\_\_\_\_.
- ☐ National wetlands inventory map(s). Cite name: \_\_\_\_\_.
- ☒ State/Local wetland inventory map(s): Clark County Digital Atlas for parcel 228576000
- ☐ FEMA/FIRM maps: \_\_\_\_\_.
- ☐ 100-year Floodplain Elevation is: \_\_\_\_\_ (National Geodetic Vertical Datum of 1929)
- ☐ Photographs: ☐ Aerial (Name & Date): \_\_\_\_\_  
or ☐ Other (Name & Date): \_\_\_\_\_.
- ☐ Previous determination(s). File no. and date of response letter: \_\_\_\_\_.
- ☐ Applicable/supporting case law: \_\_\_\_\_.
- ☐ Applicable/supporting scientific literature: \_\_\_\_\_.
- ☐ Other information (please specify): \_\_\_\_\_.

##### **B. ADDITIONAL COMMENTS TO SUPPORT JD:** Mill Creek is not considered a TNW. The lower portion of Salmon Creek, downstream of I-5 or at about RM 4, may be a TNW; however there is no known documented connection to foreign or interstate commerce. A formal determination on whether the lower portions of Salmon Creek are a TNW has not been made.

This JD has been coordinated with the U.S. Environmental Protection Agency per the Rapanos Guidance. EPA concurred with the finding of jurisdiction on July 10, 2008.